



TOWN OF SURFSIDE

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Dear Surfsiders:

Recently, there has been a lot of local discussion and debate regarding the Town's Zoning Code. While there are many issues and uncertainties, I am writing to address the history of the Zoning Code and some of the legal implications of the referendum petition that may result in a special election on the adoption of the Zoning Code.

First, some background. The Zoning Code was initially adopted in May 2008. This year, in the course of preparing the defense of a lawsuit filed by a resident challenging a site plan approval under the Code, the Town Attorney determined there may have been a deficiency in the newspaper notification. The substance of the notice was correct, but the former Town Clerk may have fallen short on the required number of days for the newspaper notice prior to the hearing. Although there were at least 70 public workshops and meetings where the public had an opportunity for input prior to the adoption of the Zoning Code, it seemed to be the best practice to cure any possible deficiency by simply re-adopting the Zoning Code with proper notice, than to fight litigation with taxpayer funds. The Zoning Code was readopted correctly in August 2010.

The reason a new zoning code was adopted in 2008 and refined over the last couple of years is that the old zoning code had numerous deficiencies. For one thing, it was subject to criticism as being too subjective. The new Zoning Code established objective standards for many of the provisions in the old zoning code, transforming the Town's previous zoning code into a quasi form-based code. Some notable improvements included the development of design guidelines and the creation of a Design Review Board, restrictions on "McMansions", updating of parking requirements to reflect national standards, clarification of boat storage requirements, the correction of inconsistent treatment of places of public assembly, and increased side setbacks on Collins Ave to allow more space and stagger balconies between buildings. These are but a few of the enhancements reflected in the new Zoning Code.

In terms of zoning districts, the seven existing districts (not including MU) were renamed to reflect the permitted maximum height, and two districts (RD-1 and RD-2) were merged into one Zoning District. Finally a new zoning category called Community Facilities (CF) was added to the Code. It is specific to the needs of the Town's Community Center. In general, the intent was to make the Zoning Code readable to any person who picked it up.

One of the allegations we have heard repeatedly by those who oppose the new Zoning Code is that it somehow violated the 2004 Charter Amendment limiting-height, density, and intensity of use. We have also heard that the new Zoning Code somehow loosens restrictions of the old zoning code to allow for intense development such as the kind of development we have seen in cities like Sunny Isles Beach. Both allegations are categorically untrue, seriously misrepresenting the facts. The Town requested that independent attorneys and planners review the new Zoning Code. They have all come to the exact same conclusion: **NO CHARTER VIOLATION HAS OCCURRED AND NO CODE RELAXATION THAT WILL RESULT IN INCREASED INTENSITY OR DENSITY OF DEVELOPMENT HAS BEEN CREATED.**

Unfortunately, and despite the fact that the Commission is willing to continue to consider any changes requested by the public, opponents of the Zoning Code have filed a petition to repeal the entire Zoning Code. This referendum will not only cost taxpayers the expense of a special election, but more significantly may have other detrimental impacts on the Town and its residents. First, there is no precedent for the repeal of a whole zoning code in Florida. As such, there are a number of unanswered questions affecting property rights in Surfside and the permits that have been issued by the Town since 2008. In addition, there could be a detrimental effect on the Community Center project, Young Israel development, and other local projects as well.

What we do know under the Surfside Town Charter is that between the time the initiative petition is deemed sufficient by the Town Clerk and until it is approved by the electorate, the entire Zoning Code will be suspended. Charter Section 116, describing the effect of certification of referendum petitions, provides that:

“...the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.”

Once the petition is approved for the ballot, the Town will be required to stay all permits being accepted or issued by the Town until the petition is resolved. This means all renovations and other construction must STOP.

Now, Town staff is diligently working to study the impact of the referendum and its impact on property owners and property rights in Surfside. As always, we will continue to work with citizens to address their particular concerns and we will continue to keep you advised as we better understand potential impacts.

Should you have questions, please direct them to the Town Manager's Office at 305-993-1052.

Very truly yours,

A handwritten signature in blue ink that reads "Gary L. Word". The signature is fluid and cursive, with the first name "Gary" being the most prominent part.

Gary L. Word
Town Manager